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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

PHILIP E. KAY, et al.,

## Plaintiffs,

No. C 09-1135 PJH

V.

## ORDER

## STATE BAR OF CALIFORNIA, et al.,

## Defendants.

14 The above-entitled action was filed March 16, 2009, and initially randomly assigned  
15 to a United States Magistrate Judge. On March 17, 2009, plaintiffs filed a declination to  
16 proceed before a Magistrate Judge, and the case was reassigned to the undersigned  
17 District Judge.

18 With their complaint, plaintiffs filed an application for a temporary restraining order  
19 ("TRO") and an order to show cause re preliminary injunction. Plaintiffs seek an order  
20 enjoining the State Bar of California from proceeding with pending State Bar disciplinary  
21 proceedings against two of the plaintiffs – California attorneys Philip E. Kay and John W.  
22 Dalton. According to plaintiffs, the disciplinary proceedings were set to commence on  
23 March 16, 2009.

24 Defendants are hereby ORDERED, no later than March 24, 2009, to file an  
25 opposition to the TRO application. In particular, the court is interested in defendants' views  
26 as to whether the court should decline to enjoin the pending State Bar proceedings on the  
27 basis of the abstention principles in Younger v. Harris, 401 U.S. 37 (1971). See Middlesex  
28 County Ethics Comm. v. Garden State Bar Ass'n, 457 U.S. 423, 434 (1982) (absent

1 extraordinary circumstances, Younger abstention applies where the state bar proceedings  
2 constitute an ongoing state judicial proceeding, the proceedings implicate important state  
3 interests, and there is an adequate opportunity to raise constitutional challenges).

4 No reply shall be filed. After reviewing the papers and considering the parties'  
5 arguments, the court will issue a written order on the TRO application, and, if appropriate,  
6 will set the hearing on the motion for preliminary injunction at that time. Defendants may,  
7 of course, also file a motion to dismiss.

8 No later than March 18, 2009, plaintiffs shall serve a copy of this order on  
9 defendants.

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11 **IT IS SO ORDERED.**

12 Dated: March 17, 2009



13 PHYLIS J. HAMILTON  
14 United States District Judge  
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